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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-sixth session

SUMMARY RECORD OF THE 8th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 5 August 1994, at 3 p.m.

Chairman: Mr. ATTAH

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Protection of minorities (continued)

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The meeting was called to order at 3.15 p.m.

PROTECTION OF MINORITIES (agenda item 18) (continued) (E/CN.4/Sub.2/1994/36 and Corr.1; E/CN.4/Sub.2/1994/NGO/1 and 3; E/CN.4/Sub.2/1993/34 and Add.1-4)

1. Mr. YIMER said he welcomed the suggestions for a comprehensive programme for the prevention of discrimination and protection of minorities contained in Mr. Eide's thought-provoking working paper (E/CN.4/Sub.2/1994/36 and Corr.1). In paragraph 2 Mr. Eide emphasized that his purpose was to provide a basis for the discussion of the role which could be played by the Sub-Commission in handling the core of its mandate, which was the prevention of discrimination and protection of minorities. The subject was a highly topical one in view of the massive ethnic cleansing and massacres, bordering on genocide, and huge flows of refugees and internally displaced persons, which were currently occurring in many parts of the world, most notably in Rwanda.

2. Mr. Eide rightly stated that the Sub-Commission must analyse certain new phenomena which had the effect of racial or ethnic discrimination, even if those involved avoided the language or symbols of the discredited racist mythology. The combination of ethno-nationalism and xenophobia was, indeed, an explosive one which led to a rejection of those who were different. The Sub-Commission, when formulating programmes for the prevention of discrimination and the protection of minorities, would have to take that new challenge into account.

3. In many parts of the world there was discrimination against migrant workers who were largely excluded from society. It was a matter of serious concern that the frustrations of marginal groups, such as the young unemployed, were being exploited to the detriment of migrant workers by cynical and skilful political entrepreneurs for their own political ends. That was a factor to be borne in mind by the Sub-Commission which must strive to find constructive solutions for the concerns of such groups.

4. A further point raised by Mr. Eide in paragraph 17 of his working paper related to the question of the legitimacy of the State. In seeking solutions to the problems of minorities, the State must be seen to be legitimate by all members of society; and that was the context in which the rights of minority groups must be respected. On the other hand, minorities must equally respect the common legal order in society and the human rights of the majorities.

5. In paragraph 24, Mr. Eide stressed that the right to self-determination did not include a unilateral right to independence, or secession, except in two circumstances: for non-self-governing territories, and for territories under illegal occupation, as so defined by the United Nations. That presumably meant that any emergence of a new State outside those categories would not be in keeping with international law. In that connection, he wished to ask Mr. Eide how he viewed the recent phenomenon of large multi-nation States breaking up and being replaced by a number of new States and into what category he would fit such States.

6. In paragraph 31, Mr. Eide stated that effective participation by minority groups, and effective enjoyment of their cultural rights, might sometimes require territorial decentralization or local autonomy arrangements, but that,

if decentralization was to serve a useful purpose, it must be territorial, not ethnic. It would be interesting to hear how Mr. Eide thought that such a concept could be put into practice.

7. Mr. Eide had put forward some useful ideas concerning possible areas of action by the Sub-Commission. Paragraph 34 pointed out that the proper combination of provisions concerning equality and non-discrimination, and provisions allowing for conditions to maintain group identity, should be encouraged. More important, however, was the proposal in paragraph 36 regarding the essential role of human rights-oriented education. He fully agreed with Mr. Eide that the principle of tolerance was probably the key element in the whole human rights edifice and could not be emphasized sufficiently in human rights education.

8. Paragraph 38 stated that preventive functions were equally important. However, it was easier to talk about the prevention of conflicts arising from discrimination or from tensions between different ethnic or religious groups than to achieve it, which was the most difficult aspect of the whole exercise. That was a function that must be explored further, for it was of great importance. As mentioned in paragraph 43, advisory services could be of great help in times of increasing tension.

9. Paragraph 44 rightly stated that many problems emerged not from the Government but from other elements in society; that it was a simplistic assumption to blame Governments for all violations of human rights, with the implication that nobody else was to blame, and that the result could be seriously wrong responses to tense situations.

10. Finally, there was the question of action to be taken in cases of open conflict. It was essential, as stated in paragraph 46, to insist on the application by all parties of the minimum humanitarian standards contained in humanitarian law and in human rights law. If that was to be achieved, machinery was required and the obvious focal point must be the Centre for Human Rights, which should be provided with adequate resources for the purpose.

11. Mr. BENGOA said that the problem of minorities had become a major issue and would continue to be so in the future. It called for further in-depth study and, in that connection, Mr. Eide's working paper was of both theoretical and practical value. The dangers of a violent disintegration of society in many parts of the world, to which Mr. Eide referred in paragraph 14, were very real and a solution to the problem must be sought by developing a positive approach.

12. It was clearly a fundamental right of the individual to develop his own identity within a social, cultural or religious group. That right, however, was vulnerable unless the integrity of the State was respected. Such integrity could no longer be the self-conferred monolithic structure of the European State of the eighteenth and nineteenth centuries, which had served to eliminate cultural diversity. New ideas had developed regarding the respective rights of the individual and of the Government, and the right to diversity must currently be complemented by respect for the rights of all within the State.

13. Many indigenous groups were not, in fact, minorities so that the rights and obligations of indigenous peoples were not always the same as those of minorities. He therefore fully supported the proposal contained in paragraph 39 that the Sub-Commission should seek authority to establish a working group on minorities which should then work in parallel with the Working Group on Indigenous Peoples; such a working group could make an essential contribution to a more comprehensive implementation of the mandate of the Sub-Commission and to the peaceful solution of minority problems. Its mandate should be sufficiently broad for it to be able to deal with the totality of the questions concerned; in particular it should study the interrelationships between the different sets of issues such as non-discrimination, racism, ethnic conflict, religious intolerance and xenophobia. It would also facilitate the drawing of a clear distinction between indigenous groups and social, religious or ethnic minorities.

14. Mrs. FORERO UCROS said that the problem of minorities had become an urgent issue as a result of the escalation of unacceptable practices such as ethnic cleansing, discrimination against migrants, xenophobic acts of aggression, overt or covert, religious extremism and large-scale internal displacement throughout the world. Such activities and related acts of intolerance fell clearly within the mandate of the Sub-Commission and Mr. Eide's working paper represented a valuable and balanced contribution to the consideration of the problem.

15. Basic to the issue was the need for the rights and duties of both majority and minority groups in a society to be recognized. The concept of the territorial integrity of the State as a principle of international law, as recognized in the Declaration and Programme of Action of the Vienna World Conference on Human Rights, must also be accepted.

16. The goal of the ideal State should be to develop a multicultural and pluralistic society in which majorities and minorities could live together in harmony and conditions of equality within the territory of the State while retaining their own identity within the community. To achieve that goal, appropriate measures must be taken to encourage local autonomy - particularly in the case of indigenous peoples - administrative decentralization and, above all, education for integration, without which the elimination of prejudice and hatred would not be possible.

17. She wished to stress the importance of paragraphs 44 and 46, in which Mr. Eide pointed out that the problems of minorities were attributable not only to Governments but also to other elements of society, such as sections of the security forces which pursued their own violent agenda and which the Government was unable to bring fully under control, as well as non-governmental entities which were opposing the Government or were fighting one another. They also included international peace-keeping forces wherever they were present, not to mention mercenaries and international drug-traffickers.

18. The establishment of a working group by the Sub-Commission might represent an appropriate mechanism which could develop policies for the prevention of conflicts involving minorities and which could also provide Governments with advisory services and good offices.

19. Mr. GUISSE said that the problems of minorities continued to be of legitimate concern to the United Nations. Many international instruments had been adopted for the protection of the rights of minorities, but such rights still continued to be violated on a large scale in many parts of the world. It was therefore essential that a programme should be developed which would make it possible for minorities to enjoy, under the protection of the State, all the human rights stipulated by the international community.

20. In times of conflict minorities tended to suffer more than the rest of the community. Within the context of reform it was important therefore to develop a set of rules which would afford protection to minorities in times of conflict.

21. He agreed with Mr. Yimer who had reminded the Sub-Commission that minorities had obligations and duties as well as rights. The protection afforded to minorities must not be at the expense of the rest of the population. Minorities must abide by the law and comply with measures introduced for the security of the State. They must participate fully, along with all other elements, in the life of the society in which they lived.

22. He fully endorsed the proposal for a working group which would cover all issues relating to the problems of minorities, as suggested by Mr. Eide in paragraph 39 of his working paper.

23. In conclusion, he pointed out that the disintegration of States gave rise to problems for minorities which were often divided and shared among several States. Rules must be developed for the protection of minorities, regardless of the territory in which they lived.

24. Mr. KHAN said that in his country, India, minorities represented between 20 and 22 per cent of the overall population. The Indian Constitution was one of the most effective documents for minority welfare that existed, containing as it did a long list of fundamental rights for all citizens including those who fell within groups categorized as minorities whether ethnic, religious or other. As for Mr. Eide's working paper (E/CN.4/Sub.2/1993/36 and Corr.1), its suggestions were of great importance and would undoubtedly be reflected in the future constitutions of most States with sizeable minorities.

25. He wished, however, to stress the implementation of such provisions. While many laudable objectives existed on paper, the necessary machinery or wherewithal was often lacking for their effective implementation. The greatest difficulty with respect to implementation was at the grass-roots level.

26. Mr. Eide should examine the possibility of establishing a mechanism within the United Nations, under the Sub-Commission perhaps, to ensure that its recommendations were monitored regularly. The mechanism should also call for regular progress reports from countries with sizeable minority populations. In India, the National Commission of Minorities produced quarterly progress reports along those lines.

27. In times of trouble, such as communal rioting, the formation of a peace-keeping force reflecting all sections of the population including minorities might resolve the law-and-order problem in a just way.

28. Mr. MAXIM said he wondered why the question of minorities had suddenly become so important, and whether tension was affecting all minorities or only some minorities. Mr. Eide had produced a realistic, objective, timely, pertinent and balanced report and working paper. However, the question of the protection of minorities was much clearer in the context of the Council of Europe and the Conference on Security and Cooperation in Europe. The United Nations should endeavour to keep pace with, if not surpass, the work of those organizations.

29. The Sub-Commission's consideration of the topic should go beyond Mr. Eide's report and should continue in the appropriate framework. In that connection, he highlighted in particular paragraphs 15, 16, 19, 24 and 28 of the working paper, which contained some clear suggestions for the Sub-Commission's future work.

30. Mr. SANDERS (International Lesbian and Gay Association) said that lesbian women and gay men found themselves in a minority situation and had been subjected to violence in developed countries and others by the same elements which targeted racial and other minorities. They experienced some of the tension that always existed between minority and majority populations, and therefore, like cultural minorities, needed to have their own organizations.

31. They needed to be able to participate in the political life of the State as collectivities, needed a right of access to media and needed to possess their own media. In terms of the International Covenant on Civil and Political Rights, those were not rights under article 27 but were rather rights to political participation.

32. He then summarized a number of recent cases, which had involved collective rights issues for lesbians and gay men. The Tokyo District Court had recently given a favourable ruling in a case brought by the Japanese, Lesbian and Gay Rights Organization alleging discriminatory action; there had been a ruling by a judge in the State of Colorado, United States, that an amendment to the state constitution prohibiting laws which protected lesbians and gay men from discrimination was a violation of the United States Constitution; and a case was pending in Canada regarding discrimination against lesbian and gay bookshops.

33. Mr. PHILLIPS (Minority Rights Group) said that the Sub-Commission should ask itself whether it had not, perhaps, drifted away from its original mandate. It had been criticized by some Governments for failing to allocate sufficient time at its previous session to consideration of Mr. Eide's study. That criticism might not have been wholly justified but it was, however, indicative of concern that the Sub-Commission was failing to give sufficient time to minority issues in general - issues that were dominating international news and politics.

34. No mechanism had yet been adopted for monitoring and advising on the implementation of the Declaration on the Rights of Persons Belonging to

National or Ethnic, Religious and Linguistic Minorities, adopted by the General Assembly on 18 December 1992. Such an instrument, in organization with Mr. Eide's recommendations, could be an effective tool in reducing future inter-group conflicts.

35. Mr. Eide's study had been criticized because it did not deal with the important issue of the "external" self-determination of peoples. That criticism was not well-founded, since Mr. Eide had not been asked to explore the issue in question. There was undoubtedly a need for a separate study on self-determination, but that would require a mandate from the General Assembly.

36. The Sub-Commission's role was a different one. It might possibly establish a working group and attempt to draw together long-term policy initiatives on the protection and promotion of group rights within States. It could offer advice within the United Nations system on how early warnings on issues such as the environment, political and economic discrimination and exclusion from power-sharing could be transformed into early remedial action. The real issue was not early warning, however, but very early action to counter discrimination and protect minorities locally and internationally.

37. Mr. Khan had rightly emphasized implementation. It was a lengthy process to build trust and confidence between communities that could withstand bullying bigots and those, including politicians, who stood to gain power through mobilizing different communities against one another. Having recently been to Sarajevo, he was all too well aware of the need to muster support for multiculturalism.

38. The Sub-Commission should allocate half its time to issues concerning the protection of minorities and the prevention of racism in all its forms and manifestations. It should also give priority to promoting implementation of the Declaration on Minorities and other relevant international standards, in which connection a world conference would be useful.

39. Ms. GOUGAUD (International Fellowship of Reconciliation) read out a statement prepared by Mr. Najim Omar Khedher al-Sourchi, (Registrar and Keeper of Records of the Mosul Vilayet).

40. As the information focal point for one of the areas designated as "safe havens" for the Kurds of Iraq, he had become intimately acquainted with the feelings of multi-ethnic, multireligious and multicultural community of some 6 million people that had been devastated by the embargoes imposed by the United Nations and the Baghdad regime.

41. The community in question looked to the United Nations, particularly the Sub-Commission, for guidance and had found valuable counsel in the reports of the Special Rapporteurs on Iraq and on the Protection of Minorities. Future reports would, he hoped, be even more helpful, in the light of the international guarantees for the protection of minorities enshrined in the largely forgotten Declaration of the Kingdom of Iraq of 30 May 1932.

42. Recent outbreaks of fighting between rival leaders in northern Iraq had been the result of social tensions created by the neglect of those

international guarantees for and of the morally and legally indefensible sanctions, and had made it clear to most observers that measures were urgently needed to bring relief to the people in the area affected.

43. One positive development had been the "Unity Declaration" of 31 May 1994, which had had the unanimous support of the Mosul Vilayet's political, economic and cultural leaders. That Declaration called on the United Nations to make the Mosul Vilayet a United Nations trust territory.

44. The immense oil reserves of the region could form the basis of longer-term reconstruction and economic development, enabling the region to free itself from dependency on Western aid, reverse the process of deforestation which had resulted from the desperate search for fuel, and allow the clearance of anti-personnel mines so that food production could be resumed.

45. Mr. BALIAN (Human Rights Advocates) said that there were three apparent weaknesses in Mr. Eide's working paper (E/CN.4/Sub.2/1994/36 and Corr.1), first and foremost among them being the failure to provide adequate protection for oppressed minorities in cases where Governments were not "well-intentioned". Too much reliance appeared to be placed on the readiness of Governments to meet their obligations, and there appeared to be no effective means of enforcement in cases where Governments did not do so.

46. The suggestion that a working group on minorities be established along the lines of the existing Working Group on Indigenous Peoples, had unfortunately been rejected by the Commission on Human Rights at its fiftieth session, and the existence of a real commitment on the part of the international community to the protection of the rights of minorities seemed questionable. Thus, the major role that the High Commissioner for Human Rights might play in preventing attacks on the minority rights presupposed a commitment to strengthen the Centre for Human Rights, and that, too, appeared to be lacking.

47. The second weakness of the working paper was its "statist" approach to the problem of defending minority rights, which might offer a justification for State violence directed against particular minorities. One example was the reference in paragraph 15 to the "blind and irrational violence between members of groups" which, it considered, was generally initiated by "conflict entrepreneurs". That generalization appeared to overlook legitimate grievances of minorities in most conflicts and to justify the suppression of minority rights in the name of combating "extremists" or "terrorists".

48. Lastly, his organization was concerned at the arbitrary limitations which the working paper appeared to place on the right to self-determination and which had no basis in international law. According to paragraph 24 "the right to self-determination does not include the unilateral right to independence, or secession, except in two circumstances: for non-self-governing territories, and for territories under illegal occupation defined as such by the United Nations.". The Vienna Declaration, cited in support of that assertion, did not in fact impose any such limitation. Furthermore, it stipulated that the territorial integrity of States was conditional on the States "conducting themselves in compliance with the

principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction of any kind".

49. In contrast with the working paper, the Declaration of the Parliamentary Assembly of the CSCE, made at Vienna on 8 July 1994, which also addressed the right to self-determination and conflicts involving minorities, emphasized the right of all peoples to self-determination and to choose their political status freely without outside interference; called on its member States to define mechanisms by which those rights might be peacefully exercised, and also proposed a research project to clarify the relationship between the right to self-determination and territorial integrity in order to resolve conflicts which might arise from the interpretation of those terms.

50. Mr. EAGANS (International Human Rights Association of American Minorities), referring to information provided by the Lost-Found Nation of Islam, said he wished to give an early warning of the potentially disastrous situation in the United States, where continuing violations of the human rights of African-Americans posed a threat to the political and economic well-being of the State itself and raised the spectre of bloodshed of the kind recently seen in Bosnia and Rwanda. Such was the level of frustration among African-Americans that a march on Washington, D.C. was being planned for 1995 to draw attention to their grievances, in which up to 1 million people were expected to participate.

51. At the root of the grievances lay the relative social and economic disadvantages suffered by African-Americans who, in contrast with the affluence enjoyed by white Americans, were in a situation more comparable to that of some developing countries, as a result of gross violations of their human rights in the past. He urged the United Nations to alert the United States Government to the threat and encourage it to provide real hope of relief to the African-Americans and their leaders, since failure to do so might have unforeseeable and incalculable consequences.

52. His organization reiterated its request that the United Nations should launch an investigation into the situation of the African-American minority. Such an investigation should result in the creation of a forum in which African-Americans in their diversity could enter into a dialogue with the United States Government as equal partners and without fear of retaliation to resolve their grievances.

53. The violations of the human rights of African-Americans had been a tragic blot on the record of a country whose struggle for independence and representative government had been an example to the world. Failure to tackle those evils would weaken the credibility of the United States and of the United Nations in the area of human rights and the courage had to be found to rectify injustices.

54. Mr. KANT (Indian Institute for Non-Aligned Studies) said that the issues of minority rights and human rights were inseparable. The United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities was based on the idea of equality in all spheres of life.

55. The experience of the Indian subcontinent revealed that the division of territory to form new States as a way of satisfying the demands of religious and cultural minorities merely created pressure for further division, as each new national territory itself contained minorities. India had a number of different "settled" minorities, the largest of those being the Muslims, who accounted for about 15 per cent of the total population. Such settled minorities were protected by the Constitution from discrimination and their cultural and educational rights were guaranteed. Nevertheless, while the State had integrated its Muslim minority into the political system, it had succeeded only partially in protecting it from human rights violations. The Minority Commission established by the Government should be given greater powers to enforce existing constitutional guarantees.

56. The situation of minorities in Pakistan was somewhat different, in that legislation and amendments to the Constitution had tended to restrict or violate their human rights, including their freedom of religion. Examples were the Blasphemy Law of 1985, which had been misused by the authorities particularly with regard to Christians and the Ahmadiyah, a minority created by the Government itself through a constitutional amendment in 1974, and a 1985 amendment to the Constitution which appeared to restrict religious freedom and included a provision for separate electorates which was potentially discriminatory. Violations of the human rights of the Muhajirs, a cultural minority, was yet another example which had been well documented by Amnesty International. That situation in Pakistan was potentially destabilizing for minorities throughout South-East Asia and was apt to encourage religious fundamentalists, non-State entities and individuals to organize themselves against minorities, human rights violations being the inevitable result.

57. Mr. FERNANDEZ (International Organization for the Development of Freedom of Education) said that recent tragic events should remind the Sub-Commission of the imperative need to prevent conflicts involving minority groups. In that connection, his organization fully endorsed the working paper submitted by Mr. Eide (E/CN.4/Sub.2/1994/36 and Corr.1) and wished to comment on a number of interesting points raised in it.

58. As stated in the preamble to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the promotion and protection of the rights of members of minority groups promoted the political and social stability of the State in which they lived. That idea should be at the heart of the Sub-Commission's attempts to formulate a global strategy for the protection of minorities. It was the prerequisite for any solution to the difficult problem of achieving a balance between the need for integration and the need to respect the right of different groups to preserve their own identity.

59. The Sub-Commission's comprehensive programme should be based on two pillars, one political and the other cultural. The former should guarantee ethnic and cultural minorities the mechanisms needed to protect their identity and legitimate autonomy in accordance with article 1 of the Declaration. The latter, which could develop only within a statutory framework of decentralization and autonomy, formed the core of the Declaration, since culture was central to any definition of a minority.

60. His organization had, however, emphasized more than once that the Declaration did not go far enough in the field of education and, in some respects, was in retreat from the 1960 Convention against Discrimination in Education. For example, it did not recognize as explicitly as the Convention the right of minorities to undertake their own educational activities including the management of schools. That was a fundamental consideration, given that education was crucial to the survival of any culture and needed to be taken fully into account in following up the Declaration.

61. The working paper emphasized the role of human rights education in the protection of minorities. The two purposes of education needed to be considered together, and education needed to be oriented towards achieving peace and international understanding. Finally, he supported Mr. Eide's proposal that a working group on minorities be established, in view of the extreme urgency of the issue.

62. Ms. ANDREEVSKA (Observer for the former Yugoslav Republic of Macedonia) said that mankind's noble objectives could not be achieved unless individuals lived in accordance with the fundamental principles of human rights, such as equality among individuals and nations. People had fought for their dignity and rights since time immemorial, and international instruments adopted in the twentieth century had placed human rights among the basic values of mankind. Over the past few decades, the situation with regard to human rights had changed and general indifference towards the fate of persons living in other States had ceased.

63. The rights of minorities could not be separated from human rights as a whole. They were implied in the United Nations Charter and the Universal Declaration of Human Rights and were set forth in the Declaration on Minorities, the Helsinki Final Act of the Conference on Security and Cooperation in Europe (CSCE) and in all the United Nations documents aimed at eliminating discrimination against the individual on any grounds.

64. Accepting as it did and fully observing the principles and standards contained in the basic United Nations documents and including them in its legislation, her Government took the view that human rights were universal human values and that all minorities had the right to be recognized and to enjoy all the rights and protection recognized by international law.

65. In fact, democracy could not be conceived without respect for human rights. Underlying such rights was the principle of non-discrimination, which meant that rights could not be suppressed merely on the ground of race, colour, social status, nationality or religion.

66. Mr. SALMAN (Observer for Iraq), making a statement equivalent to a right of reply, said that it was strange that the representative of the International Fellowship of Reconciliation, commenting on the rights of minorities, should have confined her remarks to reflecting the views of a particular tribe that was claiming land. The 1932 Declaration recognizing the rights of minorities living in Iraq was still in force. However, certain forces were calling for it to be disregarded, in order to cause trouble for

Iraq, which was already suffering severely from the United Nations embargo. The problems encountered by the tribe referred to by the speaker were those of the Iraqi people as a whole.

67. Mr. JOINET said that it was his understanding that the proposed working group on minority issues would not be a thematic mechanism. While he was in favour of the establishment of such a working group, he feared that there might be some overlapping. The Working Group on Indigenous Populations had originally been a working group on indigenous minorities, concerned mainly with populations on the American continent and in Australia. In some countries, however, such as Guatemala and Bolivia, the indigenous population constituted a majority. The title of the Working Group had consequently been changed. It still, however, dealt with the situation of groups that constituted minorities within the meaning of Mr. Eide's report. Consequently the question arose as to how the two working groups would be coordinated.

68. The ambiguous relationship between ethnocracy and democracy was fundamental at the conceptual level. There were some genuinely valid reasons for the establishment of a working group on minority issues. The experience gained during his recent trip to Rwanda had led him to reflect upon the need for the Sub-Commission to reconsider its position with regard to minorities, especially ethnic minorities, and the role played by advisory services.

69. The concept of the right to self-determination was being stretched: self-determination normally led to greater democracy, but the right to it could apparently be invoked to promote ethnocratic rather than democratic processes. In the case of ethnic cleansing the United Nations had learnt a little more about the causes of the problem, which were more widespread around the world than was generally believed.

70. In paragraph 31 of his working paper (E/CN.4/Sub.2/1994/36 and Corr.1), Mr. Eide cited some positive examples of conflicts that had originally seemed to imply an ethnic partition of a territory but that had finally been resolved otherwise. Such positive developments should not be forgotten in the concentration on what had gone wrong elsewhere. Moreover, the Declaration on Minorities, which it had taken such a long time to prepare, should be followed up.

71. A further justification for the establishment of the proposed working group was that it would encourage Governments to ratify the international Convention on the Protection of the Rights of All Immigrant Workers and Members of Their Families.

72. Mr. ALFONSO MARTINEZ, commenting on Mr. Joinet's remarks regarding the history of the Working Group on Indigenous Populations, said that there had never been any doubt as to the purpose of that Working Group, which had never been intended to discuss the situation of minorities in general. The treatment given to the two groups - minorities and indigenous populations - had been different.

73. It was possible that, in some countries, minorities were treated in the same way as indigenous populations, but minorities did not usually wish to be treated in that way, although it was true that approaches were being made to

the Working Group on Indigenous Populations by certain minority groups in Africa and Asia which could not be styled indigenous. Thus the two categories must not be confused, and any link between the working groups entrusted with dealing with them must be avoided.

74. Mr. EIDE, replying to some of the comments that had been made on his working paper, said that he was very pleased at the support given to his approach by his colleagues and by a number of non-governmental organizations.

75. Mr. Yimer had raised the issue of the interpretation of the right to self-determination in the light of the existence of a number of new States which had not emerged from non-self-governing territories. The former Soviet Union had produced the greatest number of such States. It was his own opinion that those States had come into being not as a result of the exercise of the right to self-determination but as the result of an agreement among the major republics to dissolve the Union. None of them had exercised a unilateral right to self-determination. The case of the former Czechoslovakia was still easier to deal with, because the two successor States had freely agreed that their further union was no longer useful. The former Yugoslavia presented a more complicated case. The process had been initiated because the federal system had broken down, since Serbia had violated the basic principle of the rotation of the Presidency. At the root of the emergence of Eritrea was the failure to comply with the initial arrangements made when Ethiopia and Eritrea had been united. In none of those cases had the creation of new States been the product of a unilateral right to self-determination.

76. As far as the issue of territorial or ethnic decentralization was concerned, he took the view that, as far as possible, the previously existing administrative borders should be accepted, with no attempt to redraw them around ethnic groups as such. Otherwise situations like the one prevailing in Bosnia and Herzegovina could arise. In any case, decentralization could be a very useful vehicle for giving ethnic groups greater political influence. It should not, however, be carried out in such a way that those who subsequently became a minority in a decentralized area were not fully-fledged members of the new territorial entity. A distinction had to be made between a democratic and an ethnocratic approach. Considerable difficulties could be encountered in making practical arrangements in the latter case, as in Sri Lanka, for example.

77. The representative of Human Rights Advocates had expressed three concerns regarding his working paper. The first related to the problem of what could be done about Governments that were not well-intentioned. In that connection, it should be borne in mind that the problem had had to be faced in the case of South Africa. Nevertheless, continued efforts had been made to secure progress, and eventually the long-jam had been broken. A similar development had taken place in Chile, and the Sub-Commission currently had an expert from that country among its members. Badly intentioned Governments did not necessarily continue to be so for the rest of history. If the problem was approached from the standpoint of ethnic conflict, it might be very difficult to find a constructive solution at a later stage.

78. He was bemused by the second assertion by the representative of Human Rights Advocates, namely that his working paper was statist. Certainly it was

no less statist for people to demand their own State or to wish to leave their existing State and join another State. His main concern was with the well-being of the persons living in the area in question.

79. The third concern related to his interpretation of self-determination. He agreed that there was a case for secession if a Government was consistently unrepresentative of one part of the population of its State. That, however, was an extreme case that occurred only in very special circumstances.

80. The representative of Human Rights Advocates had drawn attention to a resolution adopted by the CSCE parliamentarians. His first reaction had been that the parliamentarians were exposing themselves to a considerable amount of trouble if they intended to pursue the matter along the lines of the text which had been read out. The full text, however, indicated that the parliamentarians were aware of another element in the CSCE Declaration of Principles, namely, the principle of territorial integrity. In fact, a closer look showed that there was not all that much difference between the contents of the parliamentarians' resolution and his own view. In the discussion of such matters, a fundamental problem was posed by the definition of a "people". Only when a suitable definition had been generally accepted could any serious discussion begin. Once the study provided for in the parliamentarians' resolution was under way, they would probably recognize more or less the same problems that he had recognized in his study.

81. Mr. Joinet had expressed his interest in the establishment of a working group on minority issues. The first question was whether such a working group should be thematic or of a different kind. In that connection, much would depend on the follow-up to be given, and it would be necessary to reflect on developments in various parts of the world. As the first chairman of the Working Group on Indigenous Populations, he recalled that the mandate of that Working Group had been to draft a declaration and to examine developments affecting indigenous populations. In the case of the proposed working group on minority issues, there was no need to draft a declaration because a Declaration already existed, and its main activity would be to find ways of implementing the Declaration in different contexts. As for the distinction between the Working Group on Indigenous Populations and the proposed working group on minority issues, it was quite clear in some parts of the world what was meant by an indigenous population, but in others it was not so easy to establish whether a particular group was an indigenous population or a minority. The Chairman of the Working Group on Indigenous Populations would no doubt find a way of sorting out that problem.

The meeting rose at 6 p.m.